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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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4 ANDRE KENNETH STUCKEY,  
5 Plaintiff,  
6 v.  
7 JIM ROBERSTON, et al.,  
8 Defendants.

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**I. BACKGROUND**

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11 Plaintiff Andre Kenneth Stuckey, a state prisoner currently incarcerated at Pelican Bay  
12 State Prison (“PBSP”), filed this *pro se* civil rights action under 42 U.S.C. § 1983. Plaintiff  
13 named California Department of Corrections and Rehabilitation (“CDCR”) Secretary Ralph Diaz,  
14 CDCR Director Connie Gipson, the California Correctional Health Care Services (“CCHCS”),  
15 PBSP, PBSP Warden Jim Robertson, PBSP Chief Executive Officer Bill Woods, PBSP Chief  
16 Physician and Surgeon Elena Tootell, PBSP Chief of Mental Health K. Limon, PBSP Officers M.  
17 Ford, Valdez, Hamm, Hernandez, Skaggs, and Wagner, PBSP Registered Nurses S. Barden, Troy  
18 Smith and Jasmine Yang, and John Doe #1-3, who are officers at PBSP.

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20 On December 15, 2020, the Court granted Plaintiff’s motion for leave to proceed *in forma*  
21 *pauperis* (“IFP”). Dkt. 6. On the same date, the Court issued an Order of Partial Dismissal and  
22 Serving Cognizable Claims; Referring Case to Pro Se Prisoner Mediation Program; Staying  
23 Action; and Directions to Clerk. Dkt. 7. The following background is taken from the Court’s  
24 December 15, 2020 Order, which states as follows:

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26 In his complaint, Plaintiff alleges that on May 18, 2020, he was “sent  
27 to the ‘A2’ medical isolation unit at PBSP due to having COVID-19  
28 symptoms and possible COVID-19 exposure.” Dkt. 1 at 19.<sup>1</sup> He  
claims that the named Defendants were deliberately indifferent to his  
serious medical needs in violation of the Eighth Amendment and Title  
II of the Americans With Disabilities Act (“ADA”) due to (1) their

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<sup>1</sup> Page number citations refer to those assigned by the Court’s electronic case management  
filing system and not those assigned by Plaintiff.

1 “delay in ordering the mandatory COVID-19 testing and contact  
2 tracing of all of its [PBSP] employees before, and after COVID-19  
3 first entered the prison, [which] led [Plaintiff] [to] being exposed to  
4 unsafe and inhumane conditions”; and (2) the “inadequate quarantine  
5 isolation unit exposed [Plaintiff] to unsafe and inhumane living  
6 conditions.” *Id.* at 4-22. Plaintiff also claims that he suffers from “bi-  
7 polar disorders and schizophrenia,” that he is “considered  
8 disabled . . . if there is a record of a mental impairment . . .” and that  
9 his “history of mental impairments qualify him to receive mental  
10 health and medical care on a daily basis while in the 24-hour isolation  
11 unit within [PBSP].” *Id.* at 17-18. Plaintiff claims that for fifteen  
12 days, while he was housed at the “A2 medical isolation unit” at PBSP  
13 from May 18, 2020 to June 3, 2020, Defendants Tootell, Limon,  
14 Barden, Smith and Yang denied Plaintiff mental health treatment in  
15 the form of daily mental health check-ups. *Id.* at 17-22.

16 Dkt. 7 at 2-3 (footnote in original). The Court found that Plaintiff’s aforementioned allegations  
17 appeared to state a cognizable claim for relief for violation of the Eighth Amendment against the  
18 named Defendants. *Id.* Second, the Court dismissed with prejudice any claims relating to an  
19 ADA action against the CCHCS. *Id.* at 3-4. Third, the Court found that Plaintiff’s allegation of a  
20 violation of his Fourteenth Amendment equal protection rights was conclusory and ambiguous.  
21 *Id.* at 4. Thus, the Court concluded that Plaintiff had not stated a cognizable equal protection  
22 claim, and it dismissed that claim without prejudice. *Id.* The Court dismissed with prejudice  
23 Plaintiff’s claims against the named Defendants in their official capacities for monetary damages.  
24 *Id.* Plaintiff’s supervisory liability claims against Defendants Diaz (CDCR Secretary) and Gipson  
25 (the CDCR Director) were dismissed without prejudice. *Id.* Finally, the claims against the Doe  
26 Defendants were dismissed from this action without prejudice. *Id.* at 4-5. The Court then ordered  
27 service on Defendants Robertson, Woods, Tootell, Limon, Ford, Valdez, Hamm, Hernandez,  
28 Skaggs, Wagner, Barden, Smith, and Yang. *Id.* at 6. All aforementioned Defendants have since  
been served. Dkts. 19-31.

29 Also on December 15, 2020, the Court referred this action and Plaintiff’s other pending  
30 matters to the Pro Se Prisoner Mediation Program and stayed these cases pending global  
31 settlement proceedings. Dkt. 7 at 5. The Order stated that, if necessary, the Court will issue a  
32 further briefing scheduling after the settlement proceedings.

33 On February 11, 2021, the Honorable Judge Robert M. Illman notified the Court that the  
34 parties were unable to reach an agreement. Dkt. 12. Accordingly, the Court hereby LIFTS the  
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1 stay in the instant action, and the Clerk of the Court shall REOPEN the case file.

2 **II. CONCLUSION**

3 For the reasons outlined above, the Court orders as follows:

4 1. The Court LIFTS the stay in the instant action, and the Clerk shall REOPEN the  
5 file.

6 2. The Court will resolve any pending motions in a separate written Order.

7 **IT IS SO ORDERED.**

8 Dated: May 14, 2021

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10 JUDGE YVONNE GONZALEZ ROGERS  
United States District Judge

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